

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DESMOND QUICK,

Plaintiff,

-against-

DAGOSTINOS SUPERMARKET
FRANCHISE; RUSSELL SLICK WATSON,

Defendants.

1:24-CV-9297 (JAV)

ORDER OF SERVICE

JEANNETTE A. VARGAS, United States District Judge:

Plaintiff Desmond Quick, who is appearing *pro se* and is presently incarcerated in the Auburn Correctional Facility, filed this action seeking damages relief under 42 U.S.C. § 1983.¹ He sues: (1) “Dagostinos Supermarket Franchise,” which appears to be D’Agostino Supermarkets, Inc. (“D’Agostino’s”); and (2) Russell Slick Watson, the manager of the D’Agostino’s store located at 633 Columbus Avenue, in New York, New York. The Court understands Plaintiff’s complaint as asserting claims under 42 U.S.C. § 1981 and under state law.

By order dated December 11, 2024, the court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.² The Court directs service on the defendants.

¹ Plaintiff filed his complaint while he was incarcerated in the Elmira Correctional Facility.

² Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to assistance from the Court and the United States Marshals Service (“USMS”) to effect service.³ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the USMS to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on the defendants through the USMS, the Clerk of Court is instructed to fill out a USMS Process Receipt and Return form (“USM-285 form”) for each of the defendants. The Clerk of Court is further instructed to issue a summons for each of the defendants and deliver to the USMS all of the paperwork necessary for the USMS to effect service of a summons and the complaint on each of the defendants.

If the complaint is not served within 90 days after the date summonses for the defendants are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if he fails to do so.

CONCLUSION

The Court directs the Clerk of Court to mail an information package to Plaintiff.


The Court also directs service on the defendants.

³Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

The Court further directs the Clerk of Court to: (1) issue summonses for Defendants “Dagostinos Supermarket Franchise,” which appears to be D’Agostino Supermarkets, Inc., and Russell Slick Watson; (2) complete USM-285 forms with the service addresses for each of those defendants; and (3) deliver all documents necessary to effect service of a summons and the complaint on each of those defendants to the USMS.

SO ORDERED.

Dated: January 19, 2025
New York, New York



JEANNETTE A. VARGAS
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. D'Agostino Supermarkets, Inc.
800 3rd Avenue, 5th Floor
New York, New York 10022
2. Russell Slick Watson
Store Manager, Store #815
633 Columbus Avenue
New York, New York 10019